

From: djsmith@checkfree.com@inetgw
To: Microsoft ATR
Date: 1/23/02 1:30pm
Subject: Microsoft Settlement

Dear sirs:

I have thoroughly read the 'Proposed Final Judgement'(PFJ) in the United States vs. Microsoft, and would like to comment pursuant to the Tunney Act and its provisions for public comment.

There are several points which I would like to make concerning the PFJ. First, I believe this proposal would still allow Microsoft to manipulate licensing agreements such that Windows applications would be unable to run on non-Microsoft operating systems(OSs). If OS users are not able to run Windows applications on an OS other than one of the flavors of Windows, this provides a Application Barrier to Entry to any OS wishing to provide a product in direct competition to Windows. Since the Windows OS and the applications running within it were determined by the Court to be distinct entities, it seems unfair that users couldn't choose to use one without the other.

Secondly, being a software professional for the last 15 years, I have seen my share of Windows and non-Windows products. On several occasions during this period, a non-Windows solution would have been the clear favorite if we could have had open access to the structure and definition of the Windows Application Programming Interfaces (APIs). The language of the PFJ limits the disclosure of Windows APIs by defining the terms "API" and "Microsoft Middleware" such that Microsoft would be able to exclude APIs used by other application programs (not expressly in the "Microsoft Middleware" definition). This would also prevent other application developers from being able to write applications to use these interfaces correctly, which would also prohibit competition.

Lastly, the wording of the PFJ specifically omits other Intel-based operating systems such as Windows XP Tablet PC Edition, Windows CE, Pocket PC, and the X-box. I don't understand why these systems should be allowed to appear under the radar of the Judgement, since many of the same applications which could run on other Windows environments could also run on these. Therefore, if Microsoft is allowed to produce applications which can run on these operating systems as well as the included Windows systems, aren't they able to gain an unfair advantage, since their applications are now by definition more universal? By excluding them and their APIs from the PRJ, aren't we allowing unfair competitive practices?

These are the main issues I am in opposition with at this time. As I continue to digest all that this agreement encompasses, I may find more to mention.

Thank you for your time and consideration.
Donald J Smith

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